

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :03.04.2018
CORAM
THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
W.P.No.23218 of 2014
and
M.P.No.1 of 2014

M/s.Aruchem Chemical Company, rep.herein by its
General Manager-Finance, Mr.Y.Hariharan, and
having its Sales Office at No.79/(Old No.29/9),
Valmiki Street, Thiruvannamiyur, Chennai - 600 041.

..Petitioner

vs

1.The Commissioner - I, Workmen Compensation,
Office of the Deputy Commissioner of Labour-I,
2nd Floor, DMS Compound, Anna Salai,
Teynampet, Chennai - 600 006.

2.S.Silambarasan

.. Respondents

Prayer: Writ Petition filed under Article 226 of the
Constitution of India praying to issue a Writ of Certiorari,
calling upon the 1st respondent to produce the records in respect
of the Impugned Order dated 02.07.2014 passed in I.A.No.29/2012
in W.C.No.80 of 2014 and quash the same.

For Petitioner : M/s.S.Venkataraman

For Respondents : Mr.V.Kadhirvelu, Spl GP for R1
Mr.V.T.Balaji for R2

O R D E R

The order passed by the 1st respondent in I.A.No.29 of 2012
dated 02.07.2014 in W.C.No.80 of 2014, condoning the delay of
795 days is under challenge in this writ petition.

2.The writ petitioner is the Management, questioning the
order passed by the 1st respondent, condoning the delay of 795
days in filing the claim application under the Employee's
Compensation Act.

3.The learned counsel appearing on behalf of the writ
petitioner states that the 2nd respondent is not at all an
employee of the petitioner Management. Therefore, the 1st
respondent ought to have been adjudicated the said issue at the
first instance. Therefore, the delay condoned is to be scrapped.

4.The learned counsel appearing on behalf of the 2nd respondent states that the 2nd respondent was an employee of the petitioner Management and he is having sufficient evidence to establish the same and in the event of conducting trial by the 1st respondent, the 2nd respondent will be in a position to establish his employment with the writ petitioner Management.

5.May that it be, all these issues relating to the merits are to be tried by the 1st respondent in accordance with the procedures contemplated under the Act and the Rules. The Hon'ble High Court under Article 226 of the Constitution of India cannot decide these factual issues, more specifically, when the matter is in relation to condoning the delay of 795 days in filing the application under the provisions of the Employee's Compensation Act.

6.This Court is of an opinion that the Compensation Act is a welfare legislation, more specifically, in order to compensate the injured labourers during the course of employment. The benefit of such welfare legislation cannot be denied to the labourers on mere technical grounds. An employee must be provided with an opportunity to adjudicate the matter on merits and such an opportunity to establish his case is vital for the purpose of deciding the issues relating to award of compensation.

7.This being the factum of the case, the delay condoned by the 1st respondent is just and reasonable and based on equity. Thus, this Court is of an opinion that there is no infirmity as such in respect of the order passed by the 1st respondent, condoning the delay and numbering the main application for the purpose of proceeding with the enquiry under the provisions of the Employee's Compensation Act.

8.The application is pending for the past about four and half (4 ½) years and therefore, it is necessary that the 1st respondent should take up the matter at the earliest possible and decide the same by providing opportunity to all the parties concerned within a reasonable period of time and without causing any undue delay and by not granting unnecessary adjournments.

9.In this view of the matter, this Court is of an opinion that there is no infirmity in respect of the order passed by the 1st respondent in I.A.No.29 of 2012 in W.C.No.80 of 2014 dated 02.07.2014.

10. Accordingly, the above said order stands confirmed and the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(CS VI)

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Sub Assistant Registrar

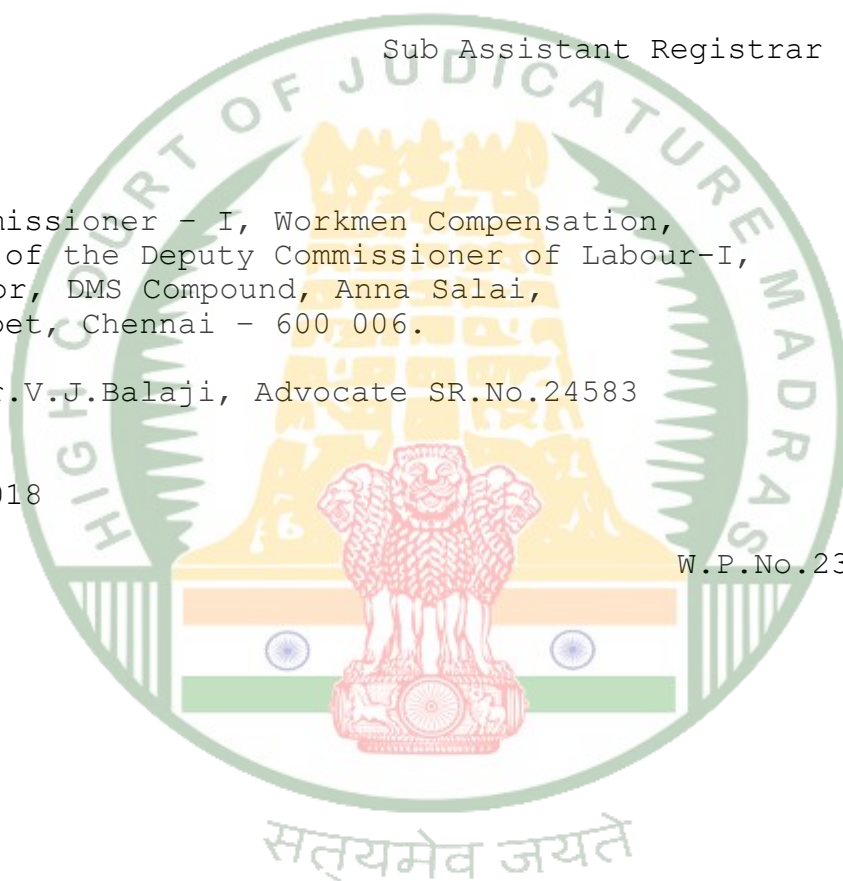
To

1. The Commissioner - I, Workmen Compensation,
Office of the Deputy Commissioner of Labour-I,
2nd Floor, DMS Compound, Anna Salai,
Teynampet, Chennai - 600 006.

+1cc to Mr.V.J.Balaji, Advocate SR.No.24583

SSV(CO)
sm:20.4.2018

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